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Filing date: **01/23/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91177192
Party	Plaintiff NAUTICA APPAREL, INC.
Correspondence Address	Stephen L. Baker Baker and Rannells, PA 575 Route 28, Suite 102 Raritan, NJ 08869 UNITED STATES n.friedman@br-tmlaw.com
Submission	Motion to Compel Discovery
Filer's Name	Neil B. Friedman
Filer's e-mail	s.baker@br-tmlaw.com,n.friedman@br-tmlaw.com,d.comunale@br-tmlaw.com, K.Hnasko@br-tmlaw.com,officeactions@br-tmlaw.com
Signature	/Neil B. Friedman/
Date	01/23/2009
Attachments	Motion To Compel Disclosures.pdf (5 pages)(48829 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

NAUTICA APPAREL, INC.,

Opposition No. 91177192

Opposer,

Mark: GET NAUTI

v.

Serial No. 78610037

MARTANNA LLC,

Filed: April 15, 2005

Applicant.

**OPPOSER'S MOTION COMPELLING APPLICANT'S
DISCLOSURES PURSUANT TO TRADEMARK RULE § 2.121(E)**

Opposer, Nautica Apparel, Inc. ("Opposer") respectfully moves this Honorable Board to compel Applicant Martanna, LLC's disclosures pursuant to Trademark Rules of Practice § 2.121(e); for a stay of the trial deposition that has been noticed by Applicant for February 5, 2009; and a delay/rescheduling of the present trial schedule in order to afford Opposer the required disclosures.

Pursuant to Trademark Rules of Practice § 2.121(e), a party is required no later than fifteen days prior to the opening of its testimony period to disclose the following:

1. The name, telephone number and address of each witness from whom it intends to take testimony;
2. General identifying information about the witness, such as relationship to any party, including job title if employed by a party, or, if neither a party nor related to a party, occupation and job title;

3. A general summary or list of subjects on which the witness is expected to testify; and
4. A general summary or list of the types of documents and things which may be introduced as exhibits during the testimony of the witness.

Pursuant to the Board's Order dated September 12, 2008, Applicant's 30-day trial testimony period is scheduled to close on February 9, 2009. As such, pursuant to Trademark Rules of Practice § 2.121(e), Applicant was required to make the required disclosures to Opposer by December 29, 2008. Applicant never made any of the required disclosures to Opposer.

On January 21, 2009, Applicant transmitted its Notice of Examination of Witness regarding the taking of testimony from Michael DiMeglio on February 5, 2009. Such notice prompted an immediate reply from Opposer's counsel requesting the required § 2.121(e) disclosures. A copy of Opposer's letter dated January 21, 2009 is attached hereto.

In light of the upcoming deposition scheduled by Applicant for February 5, 2009 Opposer requested a response from Applicant by January 22, 2009. No response from Applicant was forthcoming. Today, in an effort to resolve this issue Opposer's counsel attempted to contact counsel for the Applicant via telephone and was advised that counsel was not in the office. Counsel for Opposer will be travelling abroad from January 25, 2009 through February 2, 2009 in connection with another litigation.

WHEREFORE, Opposer respectfully requests an Order that Applicant be compelled to make its disclosures pursuant to Trademark Rules of Practice § 2.121(e); an immediate stay of the proceedings in order to prevent the noticed deposition from

proceeding; and the rescheduling of the present trial schedule and such other and further relief.

Dated: January 23, 2009

Respectfully submitted,

By: /Stephen L. Baker/
Stephen L. Baker
Neil B. Friedman
BAKER & RANNELLS PA
575 Route 28, Suite 102
Raritan, NJ 08869
(908) 722-5640
Attorneys for Opposer,
Nautica Apparel, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing MOTION COMPELLING APPLICANT'S DISCLOSURES PURSUANT TO TRADEMARK RULE § 2.121(E) was forwarded by email and first class postage pre-paid mail by depositing the same with the U.S. Postal Service on this 23rd day of January, 2009 to the attorneys for the Applicant at the following address:

Howard G. Slavit, Esq.
Shannon H. Bates, Esq.
2600 Virginia Avenue, NW
Suite 1000 – The Watergate
Washington, D.C. 20037
hslavit@saull.com
srutngamlug@saull.com

/Neil B. Friedman/
Neil B. Friedman

BAKER AND RANNELLS, P.A.
INTELLECTUAL PROPERTY ATTORNEYS

STEPHEN L. BAKER ♦
JOHN M. RANNELLS ♦
NEIL B. FRIEDMAN ♦

RYAN A. MCGONIGLE ♦
LINDA M. KURTH*
MOIRA J. SELINKA+

575 ROUTE 28 - SUITE 102
RARITAN, NEW JERSEY 08869
TELEPHONE (908) 722-5640
FACSIMILE (908) 725-7088
WWW.TMLAWWORLDWIDE.COM

NEW YORK OFFICE
1350 BROADWAY, 10TH FLOOR
NEW YORK, NY 10018
TELEPHONE (212) 481-7007
FACSIMILE (800) 688-8235

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+NEW JERSEY
* NEW JERSEY & REG. PATENT
ATTORNEY

PLEASE RESPOND TO THE NEW JERSEY ADDRESS
EMAIL: N.FRIEDMAN@BR-TMLAW.COM

January 21, 2009

VIA EMAIL

Howard G. Slavitt, Esq.
Saul Ewing, LLP
2600 Virginia Avenue, NW
Suite 1000 – The Watergate
Washington, D.C. 20037

Re: Nautica Apparel, Inc. v. Martanna LLC
TTAB Opposition No. 91177192

Dear Mr. Slavitt:

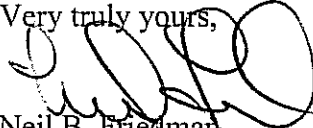
I am in receipt of your Notice of Examination of Witness regarding the taking of testimony from Michael DiMeglio on February 5, 2009.

Pursuant to Trademark Rules of Practice § 2.121(e), a party is required no later than fifteen days prior to the opening of its testimony period to disclose the following:

1. The name, telephone number and address of each witness from whom it intends to take testimony;
2. General identifying information about the witness, such as relationship to any party, including job title if employed by a party, or, if neither a party nor related to a party, occupation and job title;
3. A general summary or list of subjects on which the witness is expected to testify; and
4. A general summary or list of the types of documents and things which may be introduced as exhibits during the testimony of the witness.

We have not received any of the required information from Applicant. In order to prevent a delay of the proceedings and unnecessary motion practice before the Board, please provide the required information prior to the close of business tomorrow.

Very truly yours,



Neil B. Friedman

NBF:aa